

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NO. 19-CR-10040

JEFFREY W. YOUNG, JR.,

Defendant.

TRANSCRIPT OF THE JURY TRIAL
BEFORE THE HONORABLE JOHN T. FOWLKES
AFTERNOON SESSION

FRIDAY

MARCH 31, 2023

TINA DuBOSE GIBSON, RPR
OFFICIAL REPORTER
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UNREDACTED TRANSCRIPT

A P P E A R A N C E S

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FRIDAY

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THE COURT: Okay. Anything before we bring in the jurors?

MS. PAYERLE: No, Your Honor.

MR. FERGUSON: No, Your Honor.

THE COURT: This is going to be the most exhilarating part of the trial.

MS. PAYERLE: Yes, Your Honor.

THE COURT: All right. Bring them in, please.

(Jury in at 1:05 p.m.)

THE COURT: Okay, ladies and gentlemen. I hope you enjoyed lunch. I hope you didn't eat too much and fall asleep because of the next portion of the trial. Seriously, the last thing before you begin your deliberations are the closing instructions. I'm going to read them. Please listen carefully. About 25 pages I have to read plus the verdict form. But understand you will have the instructions with you when you go back to deliberate.

It's important to listen now as I go through them. But they will be there for you in order to refer to them for certain law that you may need. A lot of these you've heard already. You'll hear them again. And then

1 there are quite a few additional ones, once I had an
2 opportunity to talk to the lawyers and listen to all the
3 proof. So let's go ahead and get to it and get it done.

4 This is United States v. Jeffrey Young. Closing
5 instructions. The evidence in this case has been completed,
6 and it is my duty now to instruct you as to the law. The law
7 applicable to this case is stated in these instructions. And
8 it is your duty to carefully consider all of them. The order
9 in which these instructions are given is not an indication of
10 their relative importance. You should not single out one or
11 more of them to the exclusion of others, but you should
12 consider each one in the light of and in harmony with the
13 others.

14 You are the exclusive judges of the facts in this
15 case. Also, you are the exclusive judges of the law under
16 the direction of this Court. You should apply the law to the
17 facts in deciding the case. And you should consider all of
18 the evidence in light of your own observations and experience
19 in life.

20 The indictment in this case is a formal written
21 accusation charging the defendant with various crimes. It is
22 not evidence against the defendant, and it does not create
23 any inference of guilt. It is just the formal way that the
24 Government tells the defendant what crime he is accused of
25 committing. It does not even raise any suspicion of guilt.

1 Because, as you know, the defendant has pled not guilty to
2 the crimes charged in the indictment.

3 At times during the trial, I have ruled upon the
4 admissibility of evidence. You must not concern yourself
5 with these rulings. Neither by such rulings, these
6 instructions or any remarks, which I have made, do I mean to
7 indicate any opinion as to the facts or what your verdict
8 should be.

9 Statements, arguments, and remarks of counsel are
10 intended to help you in understanding the evidence and
11 applying the law, but they are not evidence. If any
12 statements were made that you believe are not supported by
13 the evidence, you should disregard them. And you must make
14 your decision based only on the evidence that you saw and
15 heard here in the courtroom. Do not let any rumors,
16 suspicions, or anything else that you may have seen or heard
17 outside of the courtroom to influence your decision in any
18 way.

19 The evidence in this case includes only what the
20 witnesses said while they were testifying under oath, the
21 exhibits that I allowed into evidence, and the stipulations
22 of the parties. Nothing else is evidence. The lawyers'
23 statements and arguments are not evidence. Their rulings and
24 objections to my legal rulings are not evidence. And even my
25 comments and questions aren't evidence.

1 Presumption of innocence, burden of proof, and
2 reasonable doubt. Defendant starts the trial with a clean
3 slate with no evidence at all against him, and the law
4 presumes that he is innocent. This presumption of innocence
5 stays with him unless the Government presents evidence here
6 in court that overcomes the presumption and convinces you
7 beyond reasonable doubt that he is guilty. It is, therefore,
8 incumbent upon the Government, before you can convict the
9 defendant, to establish to your satisfaction beyond
10 reasonable doubt that the crimes charged in the indictment
11 have been committed, that the same were committed within the
12 Western District of Tennessee before the indictment was
13 returned, and that the defendant on trial committed the
14 crimes in such a manner that would make him guilty under the
15 law as defined and explained to you.

16 The Government has the burden of proving the
17 guilt of the defendant beyond reasonable doubt. And this
18 burden never shifts, but remains on the Government throughout
19 the trial of this case. Defendant is not required to testify
20 or prove his innocence in any way. This means that even
21 though the defendant has a right to present evidence, he has
22 no obligation to do so or to prove to you in any way that he
23 is innocent. It's up to the Government to prove that he is
24 guilty, and this burden stays on the Government from start to
25 finish. You must find the defendant not guilty unless the

1 Government convinces you beyond reasonable doubt that he is
2 guilty.

3 Now, while the Government's burden of proof is a
4 strict or heavy burden, it is not necessary that the
5 defendant's guilt be proved beyond all possible doubt. It is
6 only required that the Government's proof exclude any
7 reasonable doubt. Possible doubts or doubts based purely on
8 speculation are not reasonable doubts. A reasonable doubt is
9 a real doubt, a doubt that is based on reason and common
10 sense after careful and impartial consideration of all of the
11 evidence. It may arise from the evidence or lack of evidence
12 or the nature of the evidence.

13 Proof beyond reasonable doubt means proof, which
14 is so convincing, that you would not hesitate to rely and act
15 upon it in making the most important decisions in your own
16 lives. If you are convinced that the Government has proved
17 the defendant guilty beyond reasonable doubt, say so by
18 returning a guilty verdict. If, on the other hand, you are
19 not convinced, say so by returning a verdict of not guilty.

20 Credibility of witnesses. You should consider
21 all the evidence presented in this case by the Government and
22 the defendant and give it a full, fair, and impartial
23 consideration. Part of your responsibility is to determine
24 what the facts are based on what you heard from the
25 witnesses. If there are conflicts in the testimony of

1 different witnesses, it is your duty to reconcile them if you
2 can. For the law presumes that every witness has told the
3 truth.

4 But when you cannot reconcile the statements of
5 different witnesses, then you must decide which witnesses or
6 witness you believe and how important his or her testimony
7 was. You do not have to accept or reject everything a
8 witness said. You're free to believe all, none, or any part
9 of any person's testimony, but you should act reasonably and
10 carefully in making these decisions.

11 In forming your opinion as to which witnesses you
12 believe, let me suggest some things for you to consider in
13 evaluating each witness' testimony. Ask yourself if the
14 witness was able to clearly see or hear the events.
15 Sometimes even an honest witness may not have been able to
16 see or hear what was happening and may make a mistake.

17 Ask yourself how good the witness' memory seemed
18 to be. Did the witness seem able to accurately remember what
19 happened. Ask yourself if there was anything else that may
20 have interfered with the witness' ability to perceive or
21 remember the events. Ask yourself how important -- ask
22 yourself how the witness acted while testifying. Did the
23 witness appear honest or did the witness appear to be lying.
24 Ask yourself if the witness had any relationship to the
25 Government or to the defendant or anything to gain or lose

1 from the case. Anything that might influence the witness'
2 testimony. Ask yourself if the witness had any bias,
3 prejudice, or reason for testifying that might cause the
4 witness to lie or slant the testimony in favor of one side or
5 the other. Ask yourself if the witness testified
6 inconsistently while on the witness stand or if the witness
7 said or did something or failed to say or failed to do
8 something at any other time that is inconsistent with what
9 the witness said while testifying.

10 If you believe that the witness was inconsistent,
11 ask yourself if this -- if this makes the witness' testimony
12 less believable. Sometimes it may, and other times it may
13 not. Consider whether the inconsistency was about something
14 important or about some unimportant detail, and ask yourself
15 if it seemed to be an innocent mistake or if it seemed
16 deliberate.

17 Also ask yourself how believable the witness'
18 testimony was in light of all the other evidence in the case.
19 Was the witness' testimony supported or contradicted by other
20 evidence that you found believable. Sometimes the testimony
21 of different witnesses just will not agree. And you must
22 decide which testimony you accept.

23 You should think about whether the disagreement
24 involves something important or not, and whether you think
25 that someone is lying or is just simply mistaken. Remember,

1 people see and hear things differently. And witnesses may
2 testify honestly, but simply be wrong about what they thought
3 they saw or remembered. Also, two honest people who witness
4 the same event may not describe it in exactly the same way.
5 It's a good idea to think about which testimony agrees best
6 with all the other evidence.

7 Also, the number of witnesses testifying
8 concerning any particular dispute is not controlling. You
9 may decide that the testimony of a smaller number of
10 witnesses concerning any fact in dispute is more believable
11 than the testimony of a larger number of witnesses to the
12 contrary. These are only some of the things that you may
13 consider in deciding how believable each witness was.

14 You may also consider other things that you think
15 shed light on the witness' believability. Use your common
16 sense and your everyday experience in dealing with people,
17 and then decide what testimony you believe and how much
18 weight you think it deserves.

19 Remember, we had an expert witness or an opinion
20 witness. During the trial, you heard the opinion testimony
21 of Dr. Tricia Aultman, who is described as an opinion or
22 expert witness. The rules of evidence provide that if
23 scientific, technical, or other specialized knowledge might
24 assist the jury in understanding the evidence or in
25 determining a fact in issue, a witness qualified as an

1 opinion or expert witness by means of special knowledge,
2 skill, or experience may testify and state his or her
3 opinions concerning such matters and give reasons for their
4 testimony.

5 Merely because an opinion or expert witness has
6 expressed an opinion does not mean, however, that you are
7 bound to accept the opinion. You must decide whether the
8 witness' opinions were based on sound reasons, judgment, and
9 information. Part of that decision will depend upon your
10 judgment about whether the witness' background, training, and
11 experience is sufficient for the witness to give the opinion
12 that you heard. The same as with any other witness, it is up
13 to you to decide the credibility of such witnesses and
14 whether you believe this test- -- believe the testimony and
15 choose to rely upon it.

16 Summaries that were introduced into evidence.
17 During the trial you have seen or heard evidence in the form
18 of data summaries, charts, drawings, e-mail exchanges, and
19 similar material. These summaries were admitted into
20 evidence in addition to the material they summarized because
21 they may assist you in understanding the evidence that has
22 been presented. But the summaries themselves are not the
23 evidence of the material they summarize. And they are only
24 valid and reliable as the underlying material they summarize.

25 Separately charged individuals. Two of the

1 persons allegedly involved in these events, Alexander
2 Alperovich and Andrew Rudin, are not on trial. This does not
3 matter. There's no requirement that all members of a
4 criminal episode be charged, prosecuted, or tried in one
5 proceeding, nor is there any requirement that the names of
6 any others involved be known. An indictment can charge a
7 defendant with a crime involving persons whose names are not
8 known; whether they are named or not does not matter.

9 Testimony of accomplice. You've heard the
10 testimony of witnesses, Dr. Alexander Alperovich and Kristie
11 Gutgsell. I'm going to mess up these names throughout. Just
12 bear with me on that. Gutgsell. You've also heard that
13 Dr. Alperovich and Ms. Gutgsell entered into cooperation
14 agreements with the Government where they were allowed to
15 enter guilty pleas to lesser charges.

16 The cooperation agreements also require that both
17 provide truthful testimony during the trial. Because of
18 their cooperation and testimony, they helped to receive
19 additional consideration in the form of a reduced -- a
20 reduction in their sentence at their sentencing hearing. It
21 is permissible for the Government to enter into such
22 agreements, but you should consider Dr. Alperovich and
23 Ms. Gutgsell's testimony with more caution than the testimony
24 of other witnesses. Consider whether their testimony may
25 have been influenced by the agreements that they entered into

1 with the Government. Also, the fact that Dr. Alperovich and
2 Ms. Gutgsell pleaded guilty is not evidence that the
3 defendant is guilty. And you cannot consider this against
4 the defendant in any way.

5 Lastly, do not convict the defendant based on the
6 unsupported testimony of such witnesses standing alone,
7 unless you believe their testimony beyond reasonable doubt.

8 Testimony of drug addict. You heard the
9 testimony of Hope Rogers and Tricia Stansell. You have also
10 heard that they were using controlled substances during the
11 time that they testified about. It is permissible for the
12 Government to use such witnesses, but you should consider
13 their testimony more -- with more caution than the testimony
14 of other witnesses.

15 An addict may have a constant need for drugs and
16 for money to support buying drugs and may also have a greater
17 fear of imprisonment because of a supply of the drugs that
18 may be cut off. Think about these things and consider
19 whether their testimony may have been influenced by their
20 addiction. Do not convict the defendant based upon
21 unsupported testimony of such witnesses standing alone unless
22 you believe that testimony beyond reasonable doubt.

23 Prior convictions. I think a couple of them
24 indicated they have prior convictions. You heard the
25 testimony of witness, Hope Rogers, who has previously been

1 convicted of a crime. This earlier conviction was brought to
2 your attention only as one way of helping you decide how
3 believable her testimony was. Do not use it for any other
4 purpose during the trial. It is not evidence of anything
5 else.

6 And statements by the defendant. You've heard
7 evidence that the defendant made statements to the Nursing
8 Board for the State of Tennessee during interviews conducted
9 by that Board in which the Government claims he admitted
10 certain facts but denied others, which the Government
11 believes were later proven to be false. It is for you to
12 decide whether the defendant made any of the statements and,
13 if so, how much weight they deserve.

14 In making these decisions, you should consider
15 all the evidence about the statements, including the
16 circumstances under which the defendant allegedly made them.
17 You may not convict the defendant solely upon his own
18 uncorroborated statement or admission to the Nursing Board.

19 Identification. The Government has the burden of
20 proving the elements of each of the crimes charged, and this
21 burden specifically includes the identity of the defendant as
22 the person who committed the crimes for which he is on trial.
23 The identity of the defendant must be proven in the case on
24 the part of the Government to your satisfaction beyond
25 reasonable doubt. In other words, the burden of proof is on

1 the Government to show that the defendant now on trial before
2 you is the identical person who committed the alleged crimes
3 with which he is charged.

4 In considering the identity of a person, you may
5 take into consideration all the facts and circumstances in
6 the case. The Court further charges you that if you are
7 satisfied from the whole proof in the case beyond reasonable
8 doubt that the defendant committed the crimes charged against
9 him, and you are satisfied beyond reasonable doubt that he
10 has been identified as a person who committed the crimes
11 charged, then it will be your duty to convict him. On the
12 other hand, if you are not satisfied with identity from the
13 proof or if you have a reasonable doubt as to whether he has
14 been identified from the whole body of proof in this case,
15 then you should return a verdict of not guilty.

16 Defendant not testifying. The defendant has not
17 taken the stand to testify as a witness, but you shall place
18 no significance on this fact. The defendant is presumed
19 innocent of the charges in the indictment, and the burden is
20 on the Government to prove his guilt beyond reasonable doubt.
21 He is not required to take the stand on his own behalf, and
22 his election not to do so cannot be considered for any
23 purpose against him, nor can any inference be drawn from that
24 fact.

25 Transcriptions of the recordings. You have

1 viewed some video recordings that were received in evidence,
2 and you were shown subtitles on the recordings. Keep in mind
3 that the subtitles are not evidence. They were shown to you
4 only as a guide to help you follow what was being said. The
5 video recording itself is the evidence. If you notice any
6 differences between what you heard on the recording and what
7 you read on the subtitles, then you must rely on what you
8 heard and not what you read. And if you could not hear or
9 understand certain parts of the recording, you must ignore
10 the subtitles as far as those parts are concerned.

11 In the indictment, the word "and" in the
12 indictment and the instructions. Although the indictment
13 charges that the statute was violated by acts that were
14 connected with the word "and", it is sufficient that the
15 evidence establishes a violation of the statute by any one of
16 the acts charged. Of course, this must be proven beyond
17 reasonable doubt.

18 On or about. You will note that the indictment
19 charges the offenses were committed on or about certain
20 dates. The Government does not have to prove that the crimes
21 happened on an exact date. But the Government must prove
22 that the crimes happened reasonably close to those dates.

23 When you heard before, direct and circumstantial
24 evidence. One type of evidence is called direct evidence,
25 and the other is called circumstantial. Direct evidence is

1 those parts of testimony admitted in court which referred to
2 what happened and was testified to by witnesses who saw or
3 heard or otherwise sensed what happened firsthand. If a
4 witness testified about what they themselves saw or heard or
5 otherwise sensed, they presented direct evidence.

6 Circumstantial evidence is all the testimony and
7 exhibits which give you clues about what happened in an
8 indirect way. It is simply a chain of circumstances that
9 indirectly proves a fact. It consists of all the evidence,
10 which is not direct evidence. Do not assume that direct
11 evidence is always better than circumstantial.

12 According to our law, direct evidence is not
13 necessarily better than circumstantial. Either type of
14 evidence can prove a fact if it is convincing enough. And
15 the Court instructs you that in considering the evidence, you
16 may consider both kinds of evidence, direct and
17 circumstantial, which are of equal value under our law.

18 The parties entered into a stipulation. During
19 the trial, the parties presented and entered into evidence a
20 stipulation. A stipulation is simply an agreement between
21 the parties regarding an evidentiary matter. Merely because
22 a stipulation was presented to you and introduced into
23 evidence does not mean that you are bound to accept the
24 contents of the stipulation as true.

25 The same as with any other piece of evidence, it

1 is up to you to decide the value of the stipulation and
2 whether you choose to rely upon it. You are directed to give
3 the stipulation such weight as you think it deserves along
4 with all the other evidence in the case.

5 Your notes. Some of you took notes. Members of
6 the jury, you've been allowed to take notes in this case.
7 The Court charges you that these notes are for your
8 individual use only, and you should not use said notes
9 directly or indirectly, explicitly or implicitly to persuade
10 other jurors as to the accuracy of said notes. They should
11 not be shown to others, nor compared, nor referred to in any
12 way as authority, but should be used privately by the maker
13 of said notes as an aid to his or her individual memory.

14 Your deliberations. The verdict must represent
15 the considered judgment of each juror. In order to return a
16 verdict, it is necessary that each juror agree thereto. Your
17 verdict must be unanimous. It is your duty as jurors to
18 consult with one another and to deliberate with a view
19 towards reaching an agreement if you can do so without
20 violence to individual judgment. Each of you must decide
21 this case for yourselves, but do so only after an impartial
22 consideration of the evidence with your fellow jurors.

23 In the course of your deliberations, do not
24 hesitate to reexamine your own views and change your opinion
25 if convinced it is erroneous. But do not surrender your

1 honest conviction as to the weight or effect of the evidence
2 solely because of the opinion of your fellow jurors for the
3 mere purpose of returning a verdict.

4 Punishment. If you decide that the Government
5 has proved the defendant guilty, then it would be my job, not
6 yours, to decide the appropriate punishment. It would
7 violate your oaths as jurors to even consider punishment in
8 deciding your verdict. Your job is to consider the evidence
9 introduced during the trial and decide if the Government has
10 proved the defendant guilty beyond reasonable doubt.

11 The law applicable to the charges in the
12 indictment. Separate consideration, a single defendant
13 charged multiple crimes. The indictment charges the
14 defendant with one count of conspiracy with others to
15 unlawfully distribute controlled substances, 13 counts of
16 unlawful distribution of controlled substance, and one count
17 of maintaining a drug-involved premises. All of these
18 charges were alleged to be committed outside the usual course
19 of professional practice and without a legitimate medical
20 purpose.

21 The number of charges is no evidence of guilt,
22 and this should not influence your decision in any way. It
23 is your duty to separately consider the evidence that relates
24 to each charge, and return a separate verdict for each one.
25 For each charge, you must decide whether the Government has

1 presented proof beyond reasonable doubt that the defendant is
2 guilty of that particular charge.

3 Your decision on one charge, whether it is guilty
4 or not guilty, should not influence your decision on any
5 other charges. You must be convinced that the Government has
6 proved all of these elements as to each count beyond
7 reasonable doubt in order to find the defendant guilty.

8 Count 1 of the indictment charges the defendant
9 with conspiracy to distribute and dispense controlled
10 substances to wit: Hydrocodone, oxycodone, and fentanyl.
11 Not for a legitimate medical purposes and outside of the
12 usual course of professional practice in violation of federal
13 law.

14 For you to find the defendant guilty of this
15 offense, the Government must prove each of the following
16 elements beyond reasonable doubt: One, that two or more
17 persons conspired or agreed to knowingly or intentionally
18 distribute controlled substances through prescriptions that
19 were not issued for a legitimate medical purpose by a
20 practitioner acting within the usual course of professional
21 practice.

22 And, two, that the defendant, knowing that such
23 prescriptions would not be issued for a legitimate medical
24 purpose by a practitioner acting within the usual course of
25 professional practice voluntarily joined the conspiracy with

1 knowledge of its purpose.

2 Conspiracy generally. As I told you before,
3 conspiracy is an agreement between two or more people to join
4 together to accomplish some unlawful purpose. It is a kind
5 of partnership in crime in which each member becomes the
6 agent of every other member. It does not matter whether or
7 not the conspiracy was ultimately successful. The essence of
8 the offense is that two or more people have combined or
9 mutually agreed to do something illegal.

10 For you to find the defendant guilty of
11 conspiracy, you also must be convinced beyond reasonable
12 doubt that the Government has proven each of the following
13 elements: First, that two or more persons agreed to try to
14 accomplish a common and unlawful plan, as charged in Count 1
15 of the indictment; and, two, that the defendant knew the
16 unlawful purpose of the agreement and joined it willfully.
17 That is, with the intent to further the unlawful purpose.

18 Several definitions. An act is done -- when an
19 act is done unlawfully, it means that the actions were
20 contrary to or against the law. The terms knowingly,
21 willfully, and intentionally mean voluntarily and not because
22 of mistake or accident. Ordinarily, there is no way that a
23 defendant's state of mind can be proved directly because no
24 one can read another person's mind and tell what that person
25 is thinking. But a defendant's state of mind can be proved

1 indirectly by surrounding circumstances.

2 This includes things like what the defendant
3 said, what the defendant did, how the defendant acted, and
4 any other facts or circumstances in evidence that show what
5 was in the defendant's mind. You may also consider the
6 natural and probable result of any act that the defendant
7 knowingly did, and whether it is reasonable to conclude that
8 the defendant intended those results. This, of course, is
9 all for you to decide.

10 The term dispense means to deliver a controlled
11 substance to an ultimate user by or pursuant to a lawful
12 order of a practitioner, including the prescribing and
13 administering of a controlled substance. The term dispenser
14 means a practitioner who so delivers a controlled substance
15 to an ultimate user.

16 And the term distribute means the defendant
17 delivered or transferred a controlled substance. The term
18 distribute includes the actual or constructive transfer of a
19 controlled substance, including the sale of a controlled
20 substance. The term distribute also includes the prescribing
21 and administering of a controlled substance. And I instruct
22 you at this time that hydrocodone, oxycodone, and fentanyl
23 are controlled substances under federal law.

24 The term a legitimate medical purpose by an
25 individual practitioner acting in the usual course of his

1 professional practice means acting in accordance with
2 generally recognized and accepted professional standards in
3 the State of Tennessee and the field in which the
4 individual -- in the field with which the individual
5 practices. In considering whether the defendant acted for a
6 legitimate medical purpose in the usual course of
7 professional practice, you may consider all of the
8 defendant's actions and the circumstances surrounding those
9 actions.

10 Prescriptions. Licensed physicians and nurse
11 practitioners are authorized to distribute controlled
12 substances through valid prescriptions. A prescription is
13 authorized only when it is issued for a legitimate medical
14 purpose by an individual practitioner acting in the usual
15 course of professional practice. The term practitioner
16 includes a physician or a nurse that is licensed by the State
17 Tennessee to distribute a controlled substance in the usual
18 course of professional practice.

19 The usual course of professional practice. The
20 term usual course of professional practice means a course of
21 treatment in accordance with a generally recognized and
22 accepted standard of medical practice. You have heard or
23 seen exhibits about what may constitute the usual course of
24 professional practice for prescribing controlled substances
25 in the State of Tennessee, and you are to weigh that evidence

1 the same way you would weigh any other evidence in this case.

2 In considering whether the defendant or an
3 alleged conspirator issued a prescription with a legitimate
4 medical purpose in the usual course of professional practice,
5 you may consider all the practitioners' actions and
6 circumstances surrounding. For you to find the defendant
7 guilty, the Government must prove to you beyond reasonable
8 doubt that the defendant knowingly and voluntarily joined the
9 conspiracy or agreement and knew or intended that the
10 prescriptions at issue were not written for a legitimate
11 medical purpose by a practitioner acting in the usual course
12 of professional practice.

13 Good faith. A practitioner may not be convicted
14 of unlawful distribution of controlled substances. When he
15 distributes controlled substances in good faith to patients
16 in the regular course of professional practice -- that should
17 be usual course of professional practice. But only the
18 lawful acts of a practitioner are exempted from prosecution
19 under the law. A controlled substance is distributed by a
20 practitioner in the usual course of his or her professional
21 practice if the substance is distributed in good faith while
22 medically treating a patient.

23 Good faith is not merely a practitioner's sincere
24 intention towards the people who come to see him, but rather
25 involves his sincerity in attempting to conduct himself in

1 accordance with the standards of medical practice generally
2 recognized and accepted in the State of Tennessee.

3 Thus, good faith, in this context, means an
4 honest effort to prescribe substances for a patient's
5 condition in accordance with the standards of medical
6 practice generally recommended and accepted in the State of
7 Tennessee.

8 However, practitioners who act outside the usual
9 course of professional practice and prescribe or distribute
10 controlled substances for no legitimate medical purpose may
11 be guilty of unlawful distribution of controlled substances.
12 This means that once the defendant meets the burden of
13 producing evidence that he -- that his or her conduct was
14 authorized, the Government must then prove beyond reasonable
15 doubt that the defendant knowingly or intentionally acted in
16 an unauthorized manner. Negligence, carelessness, or
17 foolishness are not sufficient to convict. Again, this is
18 all for you to decide.

19 Deliberate ignorance. No one can avoid
20 responsibility for a crime by deliberately ignoring the
21 obvious. If you are convinced that the defendant
22 deliberately ignored a high probability that the
23 prescriptions he issued or agreed would be issued were not
24 issued for a legitimate medical purpose by a practitioner
25 acting within the usual course of professional practice, then

1 you may find that he knew that the prescriptions he issued or
2 agreed would be issued were not issued for legitimate medical
3 purposes.

4 But to find this, you must be convinced beyond
5 reasonable doubt that the defendant was aware of the high
6 probability that the prescriptions were not issued for a
7 legitimate medical purpose by a practitioner acting within
8 the usual course of professional practice, and that the
9 defendant deliberately closed his eyes to what was obvious.
10 Carelessness, negligence, or foolishness on the defendant's
11 part is not the same as knowledge and would not be enough to
12 convict. And, again, this is -- of course, is for you to
13 decide.

14 Now, Counts 2 through 7 of the indictment charge
15 the defendant with unlawfully distributing oxycodone and
16 hydrocodone to a pregnant woman, that is, patient Hope
17 Rogers, on six specific occasions in violation of federal
18 law.

19 For you to find the defendant guilty of this
20 charge -- of these charges, the Government must prove each of
21 the following elements beyond reasonable doubt for each
22 count: One, that the defendant knowingly and intentionally
23 distributed oxycodone or hydrocodone; two, that the defendant
24 knew at the time of the distribution that the substances were
25 controlled substances; three, that the defendant knowingly

1 and intentionally distributed the substances without a
2 legitimate medical purpose and outside the usual course of
3 professional practice; and, four, that the defendant knew
4 that patient Hope Rogers was pregnant at the time.

5 Again, I instruct you that those controlled
6 substances, oxycodone and hydrocodone, are controlled
7 substances under federal law.

8 Counts 8 through 14 of the indictment charge the
9 defendant with unlawfully distributing and dispensing
10 controlled substances, specifically hydrocodone and
11 oxycodone, not for legitimate medical purposes and outside of
12 the usual course of professional practice, in violation of
13 federal law.

14 If you find the defendant guilty of these
15 charges, the Government must prove beyond reasonable doubt
16 the following elements: One, that the defendant knowingly
17 and intentionally distributed oxycodone and hydrocodone; two,
18 that the defendant knew at the time of the distribution that
19 the substances were controlled substances; and, three, that
20 the defendant knowingly and intentionally distributed and
21 dispensed these controlled substances without a legitimate
22 medical purpose and outside the usual course of professional
23 practice.

24 Finally, Count 15 of the indictment charges the
25 defendant with knowingly using and maintaining a place named

1 PREVENTAGENIX at 162 Murray Guard Drive, Jackson, Tennessee,
2 for the purpose of distributing control II -- Schedule II
3 controlled substances outside the usual course of
4 professional practice and without a legitimate medical
5 purpose.

6 For you to find the defendant guilty of these
7 charges, the Government must prove the following elements,
8 again, beyond reasonable doubt: One, that the defendant
9 knowingly and intentionally opened, leased, used, and
10 maintained a place named PREVENTAGENIX; and, two, that the
11 defendant did so for the purpose of unlawfully distributing
12 and dispensing a controlled substance.

13 The phrase for the purpose of unlawfully
14 distributing a controlled substance means that the drug
15 distribution was a significant or important reason for which
16 the defendant opened, leased, used, or maintained the
17 premises. But the Government is not required to prove that
18 the drug distribution was the defendant's primary or sole
19 purpose for doing so. In other words, the Government is not
20 required to only prove that drug activity was a significant
21 reason why the defendant opened, leased, used, and maintained
22 the place.

23 If you find, from your consideration, all of the
24 evidence, from all of the evidence that the Government has
25 proved each of these elements beyond reasonable doubt that

1 the defendant opened, leased, used, or maintained a
2 drug-involved premise, then you should find the defendant
3 guilty of maintaining a drug-involved premises. If, on the
4 other hand, you find from your consideration of the evidence
5 that the Government has failed to prove any one of these
6 elements beyond reasonable doubt, then you should find the
7 defendant not guilty.

8 Your deliberations. The verdict must represent
9 the considered judgment of each juror. I think I have read
10 this one to you. It is your duty as jurors to consult with
11 one another and deliberate towards a view of reaching an
12 agreement if you can do so without violence to individual
13 judgment. Each of you must decide this case for yourselves,
14 but do so only after an impartial consideration of the
15 evidence with your fellow jurors.

16 In the course of your deliberations, do not
17 hesitate to reexamine your own views, and change your opinion
18 if convinced it is erroneous. But do not surrender your
19 honest conviction as to the weight and effect of the evidence
20 solely because of the opinion of your fellow jurors or for
21 the mere purpose of returning a verdict.

22 When you go to the jury room, you should first
23 select one of your members to act as foreperson. The
24 foreperson will preside over your deliberations and speak for
25 you here in court. If you should desire to communicate with

1 me at any time, please write down your message or question,
2 whatever it is, and pass the note to one of our court
3 security officers who will bring it to my attention. I will
4 respond as promptly as possible either in writing or by
5 having you return to the courtroom so I can address you
6 orally.

7 I caution you, however, with regard to any
8 message or question that you might send, that you should not
9 tell me your numerical division at the time. I don't need to
10 know if you're a six/six split, seven/five, or eleven/one.

11 Now, a verdict form has been prepared and will be
12 placed in the folder along with these instructions and handed
13 to you by our court security officer or courtroom deputy. At
14 any time that you are not deliberating, lunch, break,
15 whatever, the folder and the verdict form should be delivered
16 to our court security officer who will deliver it to the
17 courtroom clerk for safekeeping. You will take the verdict
18 form to the jury room and when you have reached unanimous
19 agreement, you will have your foreperson fill in the verdict
20 form, date and sign it.

21 I'll have a copy of these instructions, the
22 indictment, and the exhibits in the case sent back to you in
23 the jury room.

24 Remember, you can have no sympathy or prejudice
25 or allow anything but the law and the evidence to have any

1 influence upon your verdict, and you must render your verdict
2 with absolute fairness and impartiality.

3 Therefore, take the case, consider all the facts
4 and circumstances fairly and impartially, and report to this
5 Court such verdict as truth dictates and justice demands. In
6 just a minute, you will be able to retire and begin your
7 deliberations. That was a long one.

8 As I said, jury -- a verdict form, as I think the
9 lawyers discussed, is going to be actually attached at the
10 rear or the end of the instructions. It's pretty simple.
11 There's 15 counts. The verbiage there just sets out, for an
12 example, we the -- we find the defendant, Jeffrey Young, as
13 to Count 1 conspiracy, and there's a blank there, also the
14 words guilty or not guilty. It's pretty simple. Whoever the
15 foreperson is will fill out the form, circle guilty or not
16 guilty or write it in the blank, but just clearly communicate
17 to me what your unanimous verdict is. And there's a
18 signature space there for each of the 15 counts.

19 Now, when you go back to your jury room, you'll
20 have all the evidence there with you. I think you know that.
21 Most of it is documentary. But there were playing of some
22 videos, and things like that. If you desire, you don't have
23 to, but if you desire to view those, let us know, and we will
24 make arrangements for some type of device to be brought back
25 there for you to view them. Don't have to but if that's your

1 request, we can accommodate. So you have all the exhibits
2 back there when you go to start your deliberations.

3 This is important, all 12 final jurors have to be
4 involved in all of the deliberations. You say, of course we
5 will. That means that before you can start deliberating and
6 talking about the case, there have to be 12 people around the
7 table back there along with the exhibits, the instructions,
8 and the indictment. So when you're discussing it, if someone
9 stands up and steps into the restroom, all discussions and
10 deliberations on the case must cease until that person comes
11 back. Remember, all 12 must be involved in all of the
12 deliberations. Okay. All right.

13 That will be up to y'all from this point forward
14 however you want to take recesses and things like that. But
15 my job now is to look at the 12 jurors. I know it's
16 difficult listening to all that. I don't think anyone fell
17 out and passed out or anything like that.

18 And so the final word is I think our 12 jurors
19 are ready to go ahead and proceed with deliberations and
20 final decisions in the case, which means I turn to our two
21 alternates. Y'all don't think you served an important part
22 in this trial, but you actually did. Y'all forced all 12 to
23 come back when they were supposed to. They may have hung out
24 at the house longer but knew that we had alternates that were
25 going to step in and take their place. I want to thank you

1 for your time and service on this case. I truly appreciate
2 it, and I really mean it when I say that I can't do my job
3 unless good folks come down here and serve on juries.

4 I'm going to ask everyone to step in the jury
5 room, but I'd like to come back and just thank you personally
6 before you be on your way. Okay. All right. Anything
7 before we turn loose the jury - - --

8 MR. FERGUSON: No.

9 MS. PAYERLE: No.

10 THE COURT: -- okay. All right. Then I'm going
11 to go ahead and dismiss you to the jury room. Remember,
12 start deliberations when all the material is brought back to
13 you. I'll be back to just speak with our alternates in just
14 a few minutes.

15 (Jury out at 1:58 p.m.)

16 THE COURT: Okay. I think all of you have
17 probably given your contact information to Mr. Herrin. I
18 don't require that everyone sit in the courtroom and wait
19 patiently, so -- you know, but as long as he has that contact
20 information, like I say, it's not necessary to be right here.
21 Okay. All right. Unless there's anything else? Yes, ma'am.

22 MS. PAYERLE: I do have one thing. Judge, this
23 might be the time to do it. I have spoken with Mr. Ferguson.
24 On October 2, 2019, which now feels like a very long time
25 ago, this case was pending in Jackson in front of Judge

1 Breen. There was a motion to transfer, I guess, venue, but
2 it's the division. I think -- and there was some concern, I
3 think, the basis of that motion had to do with the -- sort of
4 the defendant's sort of fame in the community and the people
5 who knew him.

6 THE COURT: Right.

7 MS. PAYERLE: And as a result, Judge Breen
8 implemented an order saying -- and I'm just reading from the
9 document here: The Court directs all counsel to refrain from
10 having contact with the media in any form and not to send or
11 make comments to the public regarding this case from this
12 point forward.

13 I wonder if we could just move or jointly move to
14 lift that order at this point because the jury is now out and
15 sort of in the interest of public access and so forth, it
16 just seems appropriate.

17 THE COURT: Mr. Ferguson?

18 MR. FERGUSON: I don't have any objection.

19 THE COURT: All right. Then we will remove the
20 gag order as it were, and so y'all can, as you normally
21 would, discuss the case with whomever you choose.

22 MS. PAYERLE: Thank you, Judge.

23 MR. FERGUSON: Thank you, Your Honor.

24 THE COURT: Okay. We'll be in recess.

25 (Deliberation 2:00 p.m. to 4:07 p.m.)

1 THE COURT: Okay, everybody. They want a -- you
2 know, a video player of some type -- I think y'all saw this
3 too -- to view something, which is not a problem. The real
4 question why I've gathered everyone together is whether I'm
5 just going to check with the jurors to see if there's any
6 heartburn about, you know, staying later. It's, what, four
7 o'clock, a little after four now, and normally I let them go
8 to 5:30, at least, maybe even six. But the weather -- the
9 National Weather Service has put us in Category 5, is my
10 understanding, which is probably the highest that it goes.
11 Folks from DC may not realize that we're right in the middle
12 of tornado alley right now so. Be that as it may, I'm going
13 to bring them in and talk with them about it. If they want
14 to continue -- well, before you bring them in, I'm ready to
15 stay, but comments from either side?

16 MS. PAYERLE: I think we prefer to stay, Your
17 Honor. We'll be flying back to DC in the morning.

18 THE COURT: Okay.

19 MR. FERGUSON: Same here. I'm here whenever.

20 THE COURT: All right. Bring them in, please.

21 (Jury in at 4:08 p.m.)

22 THE COURT: All right. Folks, I have a note that
23 says, we need to see a video player. Who is our foreperson,
24 the person that wrote this (indicating)?

25 Okay. Is that Mr. [REDACTED]? Okay. You are the

1 foreperson?

2 JUROR: Yes.

3 THE COURT: Okay. It's no problem getting a
4 video player to you for watching whatever you want to, as I
5 told you before. But the real reason I brought you in here
6 is the weather. Okay. A lot of folks have already cleared
7 out of the building. Normally, we'd work until 5:30, maybe
8 even six, because y'all are deliberating. I put no pressure
9 on you about how long it's going to take you to make your
10 decision. That's totally up to you. But I just kind of need
11 to know if there's any heartburn about staying this extra
12 hour because we all are ready to stay with you, but, you
13 know, that threat of weather is upon us now.

14 You know, I did the thing that experts always do,
15 you know, weather experts always do is look out the window
16 before I came in. It hadn't started raining yet or anything
17 like that, although there are heavy clouds over there on the
18 west. So kind of lean over and speak to each other in your
19 ear because if y'all want to go home, I'll call it. If you
20 want to stay, work, like I say, we normally work until 5:30
21 and maybe even six to reach a decision. So what's the
22 consensus, I guess?

23 So what's the verdict? I guess I shouldn't say
24 it like that. Do you want to stay?

25 (Jurors nod affirmatively.)

1 THE COURT: All right. Very good. We'll have
2 video equipment brought back to you so you can view whatever
3 you need. We'll go ahead and excuse you to the jury room.
4 Continue your deliberations.

5 (Jury out at 4:12 p.m.)

6 THE COURT: It's big talk for me that we have
7 video equipment that we can take right back to them. Do we
8 have equipment?

9 CASE MANAGER: Yes.

10 THE COURT: Oh, we do. Okay. Good. So we'll be
11 in recess, and we'll see that they get what they need.

12 MS. PAYERLE: Thank you.

13 MR. FERGUSON: Thank you.

14 (Deliberation 4:13 p.m. to 4:44 p.m.)

15 THE COURT: They've indicated to me that the jury
16 has reached a verdict, and we should take a look at the
17 verdict form just to make sure everything is in order. It's
18 incomplete, though. So I'm going to bring them in and let
19 them know that and then send them back to continue their
20 deliberations. Okay.

21 They reached a verdict on several counts but not
22 all of them. And so, obviously, I don't know if it's
23 oversight the way they marked the forms or what, but I can
24 bring them in and explain that to them and just let them go
25 back to the jury room and complete their deliberations. It

1 will just be a couple of minutes or it could be, as I think
2 you know, an hour or even longer. But that's -- yeah, that's
3 what I discovered, and that's how I'm going to handle it.

4 Any comments, positions from Government?

5 MS. PAYERLE: No, Your Honor.

6 THE COURT: Mr. Ferguson?

7 MR. FERGUSON: No, Your Honor.

8 THE COURT: All right. Bring them in, please.

9 (Jury in at 4:45 p.m.)

10 THE COURT: Okay, folks. Good news is that it's
11 not raining yet, so we're still in good stead there. The
12 deputy clerk, Mr. Herrin, has given me the verdict form, the
13 jacket here. I always take a look just to make sure
14 everything is in order. The verdict form is not complete.
15 Okay. And so I'd like for y'all to go ahead and continue
16 your deliberations concerning it being incomplete. It may
17 just take a few minutes or maybe you need to deliberate
18 longer, but right now it's incomplete.

19 Okay. All right. So I'm going to let you go
20 ahead back into the jury room and continue in your
21 deliberations in whatever way y'all choose.

22 (Jury out at 4:46 p.m.)

23 THE COURT: Okay. We're in recess.

24 (Deliberation 4:47 p.m. to 4:50 p.m.)

25 THE COURT: Okay. It's in order now. I guess it

1 was an oversight on their part. I'm going to bring the jury
2 in now and go ahead and receive the verdict. Bring them in.

3 (Jury in at 4:50 p.m.)

4 THE COURT: All right. Y'all may be seated.

5 Okay. Mr. [REDACTED], I think we're ready to proceed now; is that
6 correct?

7 JUROR: That's correct.

8 THE COURT: Okay. And my policy is that I read
9 the verdicts and I review them, and then we'll go ahead and
10 receive the verdict. Everyone listen, if you would, please.

11 Mr. Young, rise and face the jury. And I'm going
12 to go ahead and communicate the decision of the verdicts.

13 We, the jury, on charge in the indictment for our
14 verdict say: We find the defendant, Jeffrey Young, as to
15 Count 1, the conspiracy count, guilty. We find the
16 defendant, Jeffrey Young, as to Count 2, that's the
17 distribution to HR, guilty. There are several. Count 3,
18 distribution to patient HR, guilty. Count 4, patient HR,
19 guilty. Count 5, the same, patient HR, is guilty. Count 6
20 is the same, patient HR, guilty as to the distribution.
21 Count 7, patient HR, is guilty. Count 8, patient KS, is
22 guilty. Count 9, the same. As to Count 9, distribution of
23 KS, guilty. Similarly, Count 10, is guilty. Count 11,
24 patient KS, is guilty. Count 12, also guilty, patient KS.
25 Patient KSL, this is Count 13, is guilty. Similarly,

1 Count 14, patient KSL, guilty. And maintaining premises,
2 drug-involved premises, Count 15 is also guilty. So it's
3 guilty as to all the counts in the indictment. Okay. You
4 may be seated.

5 MR. FERGUSON: Thank you.

6 THE COURT: Mr. [REDACTED], have I communicated that
7 correctly?

8 JUROR: Yes, sir.

9 THE COURT: That is the verdict on each of the
10 counts from each of the jurors; is that correct?

11 JUROR: Yes, sir.

12 THE COURT: Okay. So this is the decision of the
13 jury? Okay.

14 JUROR: Yes, sir.

15 THE COURT: And, everyone, I just need to make
16 sure I've read it correctly, that is, guilty on all of the 15
17 counts. That's the decision of the jury, but I also have to
18 make sure it's the individual decision of each juror. So I'm
19 going to start in the front on the left.

20 Ma'am, is this your verdict?

21 JUROR: Yes.

22 THE COURT: The way I read it, I read it
23 correctly?

24 JUROR: You read it correctly.

25 THE COURT: Ma'am, is this yours?

1 JUROR: Yes.

2 THE COURT: Your verdict?

3 JUROR: Yes, sir.

4 THE COURT: Sir, your verdict?

5 JUROR: Yes, sir.

6 THE COURT: Yours?

7 JUROR: Yes, sir.

8 THE COURT: Yours?

9 JUROR: Yes, sir.

10 THE COURT: Your verdict, sir?

11 JUROR: Yes, sir.

12 THE COURT: Yours?

13 JUROR: Yes.

14 THE COURT: Yours?

15 JUROR: Yes, sir.

16 THE COURT: Yours?

17 JUROR: Yes, sir.

18 THE COURT: Okay. Yours, Mr. [REDACTED]?

19 JUROR: Yes.

20 THE COURT: And yours?

21 JUROR: Yes.

22 THE COURT: So it is the verdict of the jury at
23 this time. I'm going to go ahead and accept the verdict. It
24 has been communicated to me accurately. And it does appear
25 to be the verdict of each individual jury -- juror, as well

1 as the jury as a whole. I really want to thank you for your
2 time and attention to the case. I ask you to step back in
3 the jury room. I'd like to just talk with you personally
4 before you get out of here today and get back to your lives
5 and the weekend. Okay. All right. If you would, please,
6 I'm going to excuse you to the jury room.

7 (Jury out at 4:55 p.m.).

8 THE COURT: As I said, it's been communicated
9 accurately to me. I'm going to accept the verdict of the
10 jury. I think we need to go ahead and set this off for
11 sentencing.

12 CASE MANAGER: Thursday, August 3, 9:30 a.m.

13 THE COURT: How does that sound, Mr. Ferguson?

14 MR. FERGUSON: I'll make it work.

15 THE COURT: Okay.

16 MS. PAYERLE: Yes, Your Honor. We'll also make
17 it work.

18 THE COURT: Okay. All right. Then, August 3,
19 I'll see everyone back and we will --

20 CASE MANAGER: 9:30.

21 MS. PAYERLE: 9:30, Your Honor.

22 THE COURT: Okay. And we will continue at that
23 time. All right. Thank you, everyone, for a case that was
24 tried very professionally on both sides. We really
25 appreciate it.

1 MR. FERGUSON: Thank you, Your Honor.

2 MS. PAYERLE: Thank you, Your Honor.

3 THE COURT: And unless there's anything else from
4 either side?

5 MR. FERGUSON: No, Your Honor.

6 MS. PAYERLE: No, Your Honor.

7 THE COURT: Let's go ahead and adjourn court.

8 (Adjournment.)

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C E R T I F I C A T E

I, TINA DuBOSE GIBSON, do hereby certify that the foregoing 43 pages are, to the best of my knowledge, skill and abilities, a true and accurate transcript from my stenotype notes of the TRIAL hearing held on the 31st day of March, 2023, in the matter of:

UNITED STATES OF AMERICA

vs.

JEFFREY W. YOUNG, JR.

Dated this 3rd day of April, 2023.

s/Tina DuBose Gibson

TINA DuBOSE GIBSON, RPR
Official Court Reporter
United States District Court
Western District of Tennessee